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9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 ***

13 JAMES SHARPLESS, an individual and
SUSAN SHARPLESS, an individual,

14 Plaintiffs,

15 vs.

16 GEICO CASUALTY COMPANY, a
Maryland Corporation; DOES I through X,
17 Inclusive; and ROE CORPORATIONS XI
through XX, Inclusive;

18 Defendants.
19

CASE NO. 2:17-cv-1549-JAD-CWH

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

20 It appearing to the Court that Plaintiffs James Sharpless and Susan Sharpless
21 ("Plaintiffs") and Defendant GEICO Casualty Company ("GEICO" or "Defendant") are in
22 agreement that GEICO possesses proprietary policies and procedures and other
23 documents that include confidential information that may be subject to discovery in the
24 proceedings in this matter, but which should not be made available to the public
25 generally, this Court hereby orders that:

26 1. This Confidentiality Agreement and Protective Order ("Order") shall govern certain
27 discovery and document production among the parties, as well as discovery and
28 document production from third parties, in the above-referenced action.

- 1 2. For purposes of this Order, the term “Confidential Information” shall refer to: (1)
2 information which any party or non-party believes in good faith to be a trade secret or
3 confidential research, development, commercial, or other proprietary business
4 information within the meaning of FRCP 26(c)(1)(G); and (2) documents and/or testimony
5 that may reveal confidential, proprietary, personal or commercially sensitive information.
6 Such Confidential Information may be contained in any written, printed, recorded, or
7 graphic matter of any kind, and shall retain its confidential designation regardless of the
8 medium on which it is produced, reproduced, or stored. Such Confidential Information
9 may also be elicited at deposition or through written discovery.
- 10 3. Whenever any party or non-party desires to designate information contained in a
11 document as Confidential Information, the designating party shall mark each page of the
12 document with the word “CONFIDENTIAL” and identify such Confidential Information at
13 the time of production. Confidential Information may be used in the course of depositions
14 in accordance with this Order.
- 15 4. Transcripts or exhibits from any deposition or hearing shall be temporarily
16 designated as “Confidential” and be treated as subject to the terms of this Order. Within
17 forty-five (45) days of receipt of such transcripts and exhibits, Counsel will designate the
18 pages of the transcripts or exhibits which shall remain designated as “Confidential” and
19 will advise all other parties. If no designation is made within forty-five (45) days, the
20 entire transcript and all exhibits will be deemed not confidential.
- 21 5. All documents produced or information disclosed and any other records
22 designated as “confidential” by GEICO shall be revealed only to:
- 23 a) Plaintiff;
 - 24 b) Plaintiff’s counsel of record in this case;
 - 25 c) Defendant;
 - 26 d) Defendant’s counsel of record in this case;
 - 27 e) Paralegals and secretarial employees under counsel’s direct supervision;
- 28

- 1 f) Outside photocopying, translating, document management, and exhibit preparation
2 services engaged by a party for purposes of this litigation;
3 g) Persons employed by Counsel to act as consultants or experts in this action;
4 h) Any other person GEICO agrees in writing may be shown such documents; and,
5 i) The Court and court personnel, stenographic reporters, and videographers at
6 depositions taken in this action, and any jury empaneled in this action, subject to the
7 protections of Paragraphs 3, 4, and 9 of this Order;

8 6. The information considered as “confidential” and disclosed only in accord with the
9 terms of Paragraph 5 shall include, without limitation, any claims manual, training
10 materials, and any other information or documentation supplied by GEICO and
11 designated as “Confidential.”

12 7. Documents deemed confidential by GEICO shall be used only for the purposes of
13 prosecuting or defending this action. Under no circumstances shall information or
14 materials covered by this Order be disclosed to or discussed with anyone other than the
15 individuals designated in Paragraph 5.

16 8. Prior to disclosure of any documents designated as “confidential” to any individual
17 who is not a signatory to this Order, counsel shall require such individual to read this
18 Order and sign the Agreement which is attached hereto as **Exhibit A** and provide a copy
19 of the signed Agreement to counsel for GEICO.

20 9. Prior to filing any motion wherein information designated as “Confidential” is
21 attached, Plaintiff shall comply with LR 10-5(b) and *Kamakana v. City and County of*
22 *Honolulu*, 447 F.3d 1172 (9th Cir. 2006), or provide Counsel for Defendant reasonable
23 time, but in any event not fewer than 10 judicial days, to file a motion pursuant to LR 10-
24 5(b) and *Kamakana* to show particularized good cause or particularized compelling
25 reasons to file those documents under seal.

26 LR 10-5(b) provides:

27 Unless otherwise permitted by statute, rule or prior Court order, papers filed with the
28 Court under seal shall be accompanied by a motion for leave to file those documents

1 under seal, and shall be filed in accordance with the Court's electronic filing procedures. If
2 papers are filed under seal pursuant to prior Court order, the papers shall bear the
3 following notation on the first page, directly under the case number: "FILED UNDER
4 SEAL PURSUANT TO COURT ORDER DATED _____. " All papers filed under
5 seal will remain sealed until such time as the Court may deny the motion to seal or enter
6 an order to unseal them, or the documents are unsealed pursuant to Local Rule.
7 Pursuant to *Kamakana* and LR 10-5(b), any documents designated as "Confidential" and
8 attached to a non-dispositive motion must be accompanied by a motion showing a
9 particularized good cause for leave to file those documents under seal. Furthermore, any
10 documents designated as "Confidential" and attached to a dispositive motion must be
11 accompanied by a motion showing a particularized compelling reason for leave to file
12 those documents under seal.

13 10. This Order is subject to revocation and modification by Order of the Court upon
14 written stipulation of the parties, or upon motion and reasonable notice, including
15 opportunity for hearing and presentation of evidence.

16 11. If any Party disagrees with the designation of materials marked "Confidential," the
17 objecting Party shall provide written notice of the disagreement to GEICO, requesting a
18 meeting to confer with counsel for GEICO to resolve the dispute over the "Confidential"
19 designation. If the dispute over the designation is not resolved informally between the
20 parties, GEICO will file a motion with the Court to resolve the dispute regarding the
21 "Confidential" designation. GEICO will have 30 days from the date in which the parties
22 meet and confer regarding the dispute over the designation in which to file a motion with
23 the Court regarding the designation. In any event, unless and until a Court ruling is
24 obtained changing a designation, or the Party designating the materials as "Confidential"
25 agrees otherwise in writing, the material involved shall be treated according to the
26 existing "Confidential" designation.

27 12. This Confidentiality Agreement and Protective Order shall survive the termination
28 of this case and Counsel shall take no action to violate this Agreement. However, this

1 clause does not require Counsel to take actions contrary to the Rules of Professional
2 Conduct, which impose an obligation upon Counsel to safeguard client property for a
3 reasonable period of time.

4 13. In any action or proceeding to enforce this Order, or pursuant to paragraph 12, the
5 prevailing party shall be entitled to recover its reasonable attorneys' fees and costs,
6 without limiting any other relief that may be available, provided the Court determines
7 there was a willful and malicious violation of the Confidentiality Agreement and Protective
8 Order.

9 14. This Order shall remain in effect after the conclusion of this case and the Court
10 shall retain jurisdiction to enforce its terms and to prevent or punish violations of it.

11 15. This Order may be executed in counterparts, each of which shall constitute one
12 and the same agreement.

13 Dated this 13th day of October, 2017.

Dated this 13th day of October, 2017.

14 CLIFF W. MARCEK, P.C.

LEWIS BRISBOIS BISGAARD & SMITH
15 LLP

16 /s/ Cliff W. Marcek
17 Cliff W. Marcek, Esq.
18 Nevada Bar No. 5061
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Attorney for Plaintiffs

/s/ Cheryl A. Grames
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6385 S. Rainbow Blvd, Ste. 600
Las Vegas, Nevada 89118
Attorneys for Defendant

23 ORDER

24 IT IS SO ORDERED.

25 Dated: 10/16/17

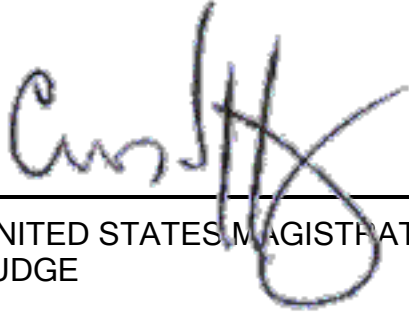
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UNITED STATES MAGISTRATE
JUDGE

EXHIBIT A

**ACKNOWLEDGMENT OF RECEIPT AND AGREEMENT TO
COMPLY WITH STIPULATED CONFIDENTIALITY AGREEMENT AND
PROTECTIVE ORDER**

The undersigned hereby acknowledges that he/she has been provided with a copy of the parties' STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER in the lawsuit captioned *James Sharpless, et al. v. GEICO Cas. Co.*, Case No. 2:17-cv-1549. The undersigned agrees to be bound by the terms of the referenced *Stipulated Confidentiality Agreement and Protective Order* in the same manner as Plaintiff and Defendant(s) and their attorneys.

DATED this ____ day of _____, 201__.

By: _____

Litigation Participant - Signature

Name (Printed)

Street Address

City State Zip

Occupation or Business